

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/GB2004/001892

International filing date (day/month/year)
30.04.2004

Priority date (day/month/year)
16.05.2003

International Patent Classification (IPC) or both national classification and IPC
G09F3/02, G09F3/10, B65D23/14, B32B7/06

Applicant
KO-PACK INTERNATIONAL (EUROPE) LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2004/001892

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material:
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing:
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/GB2004/001892

Box No. II Priority

1. ☒ The following document has not been furnished:

- ☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).
- ☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-12
Inventive step (IS)	Yes: Claims	
	No: Claims	1-12
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item I

Basis of the report

Reference is made to the following documents:

- D1: WO 00/19395 A (SCOTT LEONARD JAMES) 6 April 2000 (2000-04-06)
- D2: WO 02/098742 A (HICKEY JOHN ; KLEIN TIMOTHY H (US); SCHAUPP RICHARD (US)) 12 December 2002 (2002-12-12)
- D3: US 2003/034645 A1 (DRONZEK PETER J ET AL) 20 February 2003 (2003-02-20)
- D4: US 2001/038204 A1 (MIMATSU TOSHINORI ET AL) 8 November 2001 (2001-11-08)

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. The assessment of novelty and inventive step is unnecessarily difficult because the claims do not appear to be clear, concise and fully supported by the description in the sense of Article 6 PCT.

The claims are **not concise** because they comprise plural independent apparatus and method claims, namely **claims 1, 4, 5, 6, 7, 8, 9, 10 and 12**. Since these claims do not define *inter-related* products and since they do not solve a common *particular* problem, this plurality of claims places an undue burden on persons trying to establish the extent of the protection afforded by the claims; it also makes the claims **unclear** as a whole.

2. Novelty.

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of **claims 1-12** is not new in the sense of Article 33(2) PCT.

2.1. Claim 1.

The document D1 discloses (the references in parentheses applying to this document):

A method of labelling comprising providing a label (1), which is adapted to be detachably applied to a corresponding product (page 4, lines 13 - 19), the method

comprising applying said label to a product (page 4, lines 13 - 19; fig. 1-3), the label comprising means comprising text and/or graphics (37) inviting the user/consumer to detach a portion of the label (5) in order to gain access to another portion of the label (7,9), said other portion of the label being likewise detachably applied to the product (page 4, line 17-20), and being initially protected from user access by said first portion of the label (page 2, line 30 - page 3, line 2; figs. 1, 2, 5b, 7), and said method further comprising the step of providing on said other label portion/text and/or graphics (39, 53,54,55; figs. 1-7) inviting the user to detach said other label portion in order to gain access to matter printed at its underside (page 8, line 25 - page 9, line 18).

It is to be noted that documents D2 (see fig. 13-33) and D3 (see page 1, paragraph [0011]) also disclose such a method of using such a label for labelling products including the same features.

The subject-matter of claim 1 is therefore not new (Article 33(1) PCT).

2.2. The same reasoning applies, *mutatis mutandis*, to the subject-matter of the corresponding independent claims 4, 5, 7,8, 9, 10 and 12 which therefore are also considered not new.

2.3. Independent claim 6.

The document D4 discloses, the references in parentheses applying to this document, all the features of claim 6, merely two superimposed label portions (page 2, paragraphs [0028] and [0031], a tear line (23) and an outer portion made of polypropylene (page 2, paragraphs [0029] - [0030]; page 3, paragraph [0041]; figures 2,3).

2.4. Dependent claims 2,3 and 11.

Dependent claim 2, 3 and 11 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step, see documents D1-D3 and the corresponding passages cited in the search report.

Re Item VII

Certain defects in the international application

The description does not indicate the relevant background art according to Rule 5.1(a)(ii) PCT;

The independent claims are not in the two-part form according to Rule 6.3(b) PCT.

The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).

Re Item VIII

Certain observations on the international application

Apparatus **claims 4, 5 and 12 are not clear**, the features of this apparatus claim relate to a method of using the apparatus rather than clearly defining the apparatus in terms of its technical features. The use of term "adapted for/to" doesn't imply any limitation. The intended limitations are therefore not clear from this claim, contrary to the requirements of Article 6 PCT.